100TH CONGRESS
1ST SESSION

S. 1908

To repeal health maintenance organization authorities.

IN THE SENATE OF THE UNITED STATES

DECEMBER 1 (legislative day, NOVEMBER 30), 1987

Mr. WALLOP introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To repeal health maintenance organization authorities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1987".

(b) The amendments in this Act apply to the Public Health Service Act unless otherwise specifically stated.

REPEAL OF HEALTH MAINTENANCE ORGANIZATION AUTHORITIES

SEC. 2. (a) Sections 1301, 1302, 1305, 1306, 1307(d), 1309, 1310, 1311, 1312, 1313, 1315, 1317, and 1318 (42 U.S.C. 300e, 300e–1, 300e–4, 300e–5, 300e–6(d), 300e–8,

300e–9, 300e–10, 300e–11, 300e–12, 300e–14, 300e–16, and 300e–17) are repealed.

(b) Section 1307(b) (42 U.S.C. 300e–6(b)) is amended by striking out the second sentence.

(c) Section 1308(a) (42 U.S.C. 300e–7(a)) is amended—

(1) by striking out paragraph (1),

(2) by striking out the paragraph designation "(2)",

(3) in subparagraph (B), by striking out "subparagraph (C)" and "subparagraph (D)" and inserting instead "paragraph (3)" and "paragraph (4)", respectively,

(4) in subparagraph (C), by striking out the clause designations "(i)" and "(ii)" and inserting instead "(A)" and "(B)", repectively, and

(5) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4).

(d) Section 1308(b) (42 U.S.C. 300e–7(b)) is amended—

(1) by striking out paragraphs (1) and (2), and

(2) by striking out the paragraph designation "(3)".

(e) The first sentence of section 1308(e) (42 U.S.C. 300e–8(e)) is amended by striking out "to make loans under this title".

Public Laws: Senate Reports / 100th Congress / 1st & 2nd Session

CONFORMING AMENDMENTS

SEC. 3. (a) Section 8902(1) of title 5, United States Code, is repealed.

(b) Section 1101(a) of the Social Security Act (42 U.S.C. 301(a)) is amended by striking out paragraph (9).

(c) Section 1124(a)(2)(A) of the Social Security Act (42 U.S.C. 1320a–3(a)(2)(A)) is amended by striking out "a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act)" and inserting instead "an eligible organization (as defined in section 1876(b))".

(d) Section 1875(b) of the Social Security Act (42 U.S.C. 139511(b)) is amended by striking out "the operation and administration of health maintenance organizations authorized by section 226 of the Social Security Amendments of 1972,".

(e) Section 1876(b) of the Social Security Act (42 U.S.C. 1395mm(b)) is amended by striking out everything after "under the laws of any State," and inserting instead the following:

"which meets the following requirements:

"(1) The entity provides to enrolled members at least the following health care services:

"(A) Physicians' services performed by physicians (as defined in section 1861(r)(1)).

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

"(B) Inpatient hospital services.

"(C) Laboratory, X-ray, emergency, and preventive services.

"(D) Out-of-area coverage.

"(2) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care services actually provided to a member.

"(3) The entity provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(4) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in paragraph (1), except that such entity may—

"(A) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in paragraph

(1) the aggregate value of which exceeds $5,000 in any year,

"(B) obtain insurance or make other arrangements for the cost of health care services listed in paragraph (1) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

"(C) obtain insurance or make other arrangements for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year, and

"(D) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(5) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

Paragraph (1)(B) shall not apply to an entity which had contracted with a single State agency administering a State plan

approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.''.

(f) Section 1876(e)(3) of the Social Security Act (42 U.S.C. 1395mm(e)(3)) is amended—

(1) in subparagraph (A), by striking out ''section 1302(8) of the Public Health Service Act, other than subparagraph (C)'' and inserting instead ''subparagraph (B)'',

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(3) by inserting ''(A)'' after the paragraph designation ''(3)'', and

(4) by adding at the end the following:

''(B)(i) For purposes of paragraph (A), the term 'community rating system' means a system of fixing rates of payments for health services on a per-person or per-family basis that may authorize the rates to vary with the number of persons in a family but, except as authorized in clause (ii), the rates must be equivalent for all individuals and for all families of similar composition.

''(ii) The following differentials in rates of payments may be established:

"(I) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of members: Individual members (including their families), small groups of members (as determined under regulations of the Secretary), and large groups of members (as determined under regulations of the Secretary).

"(II) Nominal differences in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of various employers.

"(III) Differentials in such rates may be established for members enrolled pursuant to a contract with a government authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health benefits program for employees of States, political subdivisions of States, and other public entities.".

(g) Section 1876(i)(3)(C)(i) of the Social Security Act (42 U.S.C. 1395mm(i)(3)(C)(i)) is amended to read as follows:

"(C)(i) shall require the organization to protect its members from incurring liability for payment of any

fees which are the legal obligation of the organization through—

"(I) a contractual arrangement with any hospital that is regularly used by the members of the organization prohibiting the hospital from holding any such member liable for payment of any fees which are the legal obligation of the organization,

"(II) insolvency insurance, acceptable to the Secretary,

"(III) adequate financial reserve, acceptable to the Secretary, or

"(IV) other arrangements, acceptable to the Secretary, to protect members,

except that the above requirement shall not apply if applicable State law provides the members of the organization with protection from liability for payment of any fees which are the legal obligation of the organization;".

(h) Section 1902(e)(2)(A) of the Social Security Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking out "a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act)" and inserting instead "an eligible organization (as defined in section 1876(b))".

(i) The first sentence of section 1903(g)(1) of the Social Security Act (42 U.S.C. 1396b(g)(1)) is amended by striking

out "a health maintenance organization as defined in section 1876 or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" and inserting instead "an eligible organization as defined in section 1876(b)".

(j) Section 1903(m)(1) of the Social Security Act (42 U.S.C. 1396b(m)(1)) is amended—

(1) by striking out subparagraph (B),

(2) by striking out the subparagraph designation "(A)",

(3) by striking out "a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" and inserting instead "an eligible organization (as defined in section 1876(b))", and

(4) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(k) Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended—

(1) in subparagraph (E)(ii), by striking out "a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" and inserting instead "an eligible organization (as defined in section 1876(b))",

(2) in subparagraph (E)(iv), by striking out "1302(7)" and inserting instead "330(b)(3)", and

(3) in subparagraph (F), by striking out in the first sentence "a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" and inserting instead "an eligible organization (as defined in section 1876(b))".

(l) Section 1903(m) of the Social Security Act (42 U.S.C. 1396(m)) is further amended—

(1) by striking out paragraph (3),

(2) by renumbering paragraphs (4) and (5) as (3) and (4), respectively, and

(3) in paragraph (2)(A)(viii), by striking out "(4)" and inserting instead "(3)".

(m) Section 1903(m)(3) of the Social Security Act (42 U.S.C. 1396b(m)(3)) (as renumbered by subsection (l) of this section) is amended—

(1) in the matter in subparagraph (A) preceding clause (i), by striking out "which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" and "(as defined in section 1318(b) of that Act)", and

(2) by adding at the end the following:

"(C) For purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a health maintenance organization, any person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of, the health maintenance organization, and, in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director,

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 per centum of the assets of such entity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 per centum of the assets of such entity;

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

CMS LIBRARY
3 8095 00012526 6

"(iii) any person directly or indirectly controlling, controlled by, or under common control with, a health maintenance organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).".

(n) Section 813 of the Health Maintenance Organization Amendments of 1986 (42 U.S.C. 300e nt) is repealed.

EFFECTIVE DATE

SEC. 4. The amendments made by the preceding sections (other than section 3(n)) are effective on October 1, 1988.

○